

MEMORANDUM TO: Mayor and City Council

VIA: David B. Humpton, City Manager

FROM: Frederick J. Felton, Assistant City Manager

DATE: November 30, 2006

SUBJECT: County Bill 7-04

On July 25, 2006, the Montgomery County Council approved Bill 7-04, and the County Executive approved the bill on August 3, 2006. This legislation does not apply within the City of Gaithersburg.

For your review, I have attached a copy of the bill and a County Police press release concerning the requirements. Essentially, this bill regulates off-road vehicles such as mini-bikes and ATVs. The new law provides for the following:

- Operators must wear safety equipment including a helmet and eye protection.
- Prohibits operating these vehicles on County or MNCPPC property.
- Prohibits operating these vehicles on private property such as shopping malls or apartment complexes unless the owner has given written authorization.
- Requires adult supervision of anyone age 16 or under while operating these vehicles.

City Manager Humpton and I have discussed this matter with Chief Viverette. While the City has not experienced a significant amount of problems to date with vehicles of this nature, it may be worthwhile for the City to consider adopting similar requirements.

I will be seeking guidance on this issue during the December 4, 2006 Mayor and City Council meeting. If you have any questions or wish to discuss this matter, please let me know.

fjf/ms
Attachments



DEPARTMENT OF POLICE MEDIA SERVICES DIVISION

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FOR IMMEDIATE RELEASE
October 27, 2006

FOR MORE INFORMATION:
Media Services Division, 240-773-5030

New Off-Road Vehicle Law Goes into Effect November 2

The Montgomery County Police Department would like to advise citizens of a new law that will go into effect on November 2, 2006, which has been designed to decrease the number of injuries associated with Off-Road Vehicles.

In the past few years police have noticed an increase of illegally operated off road vehicles, ATV and other similar vehicles operated in the county. These off-road vehicles pose a substantial safety risk to all riders whether on public or private property. A new law in the County Code Chapter 7A, Off-The-Road Vehicles has specific requirements designed to increase the safety of the rider and increase responsibility for parents of juvenile riders. The changes in law are as follows:

- Safety equipment is required (helmet and eye)
- May not operate on county or park property without written permission by **County Executive**
- Not allowed on public access property (malls and apartment complexes)
- May not operate on private property unless:
 - Has safety equipment
 - Express written permission from property owner
 - The operation is between the hours of 7a.m. and 8p.m.
- Age 16 and under must be supervised by an adult.

By definition an off-the-road vehicle means:

- (a) has a saddle or seat for use of the rider
- (b) designed to travel on two or more wheels in contact with the ground
- (c) designed generally for use off public roads
- (d) not subject to registration requirements under Maryland Vehicle Law
- (e) generally includes the following vehicles; off the road motorcycles, all terrain vehicles, and motorized mini-bike.

Montgomery County Police want riders of off the road vehicle to ride them in a safe and responsible manner to avoid tragic incidents to the riders or others. **State Law already prohibits the use these types of vehicles on ANY public space to include streets, sidewalks, parking lots, etc.** Anyone with questions regarding the new law should contact Montgomery County Police Department at 301-840-2881 or Eric Freedman at the Office of Consumer Protection at 240-777-6636.

www.montgomerycountymd.gov/police

Bill No. 7-04
 Concerning: Off-the-road [[Motorcycles]]
Vehicles—Registration and
Operation
 Revised: 7-25-06 Draft No. 11
 Introduced: March 16, 2004
 Enacted: July 25, 2006
 Executive: August 3, 2006
 Effective: November 2, 2006
 Sunset Date: None
 Ch. 27, Laws of Mont. Co. 2006

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Praisner

AN ACT to:

- [[(1) require an owner of an off-the-road [[motorcycle]] vehicle to register the vehicle with the County Executive or a designee;]]
- [[(2)]] (1) require an operator of an off-the-road [[motorcycle]] vehicle to wear safety equipment when operating the vehicle;
- [[(3)]] (2) impose restrictions on an operator of an off-the-road [[motorcycle]] vehicle;
- (3) require retailers of an off-the-road vehicle to provide customers with written information about State and County laws on vehicle use;
- (4) provide penalties for [[failure to register an off-the-road motorcycle vehicle or]] committing an act in violation of this Chapter; and
- (5) generally create the law governing an off-the-road [[motorcycle]] vehicle.

By adding

Montgomery County Code
 Chapter 7A, Off-the-road [[motorcycles]] vehicles
 Sections 7A-1 through 7A-6.

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

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1 **Sec. 1. Chapter 7A is added as follows:**

2 **Chapter 7A, Off-the-road Vehicles.**

3 **7A-1. Definitions. In this Section:**

4 **Department** means the County Police Department.

5 **Off-the-road [[motorcycle]] vehicle** means a motor vehicle that:

- 6 (a) has a saddle or seat for use of the rider;
7 (b) is designed to travel on two or more wheels in contact with the ground;
8 (c) is designed generally for use off public roads; [[and]]
9 (d) is not subject to registration requirements under the Maryland Vehicle
10 Law; and [[.]]
11 (e) generally includes the following vehicles: an off-the-road motorcycle,
12 an all terrain vehicle, or a [[miniature motorcycle]] motorized minibike.

13 **[[f)] Off-the-road vehicle** does not include:

- 14 (a) moped as defined in Section 11-134.01 of the Transportation Article,
15 [[Annotated Code of]] Maryland Code;
16 (b) farm vehicle as defined in Section 13-911 of the [[Vehicle Law]]
17 Transportation Article, [[Annotated Code of]] Maryland Code;
18 (c) a motorized golf cart;
19 (d) a mobility device for a disabled person such as an electric motor-driven
20 wheelchair or scooter; or
21 (e) a lawn mower or any other vehicle used on agricultural, park, or
22 residential property primarily for agricultural, gardening, landscaping,
23 or lawn care[[.]] purposes.

24 **Operate** means [[exercising]] to exercise physical control over the speed or
25 direction of or physically [[manipulating]] manipulate or [[activating]]
26 activate any controls of an off-the-road [[motorcycle]] vehicle.

27 **Operator** means a person who operates, who is responsible for the operation

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of, or who [[is supervising]] supervises the operation of, an off-the-road
[[motorcycle]] vehicle.

[[7A-2. Registration.

(a) An owner of an off-the-road [[motorcycle]] vehicle must register the vehicle by:

(1) completing a registration form provided by the County Executive or a designee;

(2) presenting a bill of sale or other suitable documentation; and

(3) paying a registration fee.

(b) The County Executive or a designee must issue a County registration [[tag]] sticker to a resident who completes the registration process. Each registration [[tag]] sticker must be attached to the back of an off-the-road [[motorcycle]] vehicle and is not transferable.

(c) The County Executive or a designee must refuse to issue a registration [[tag]] sticker if:

(1) the application is not complete;

(2) the required fee has not been paid;

(3) the application contains false information; or

(4) the applicant has previously forfeited an off-the-road [[motorcycle]] vehicle under this Chapter.]]

7A-[[3]]2. Equipment for riders.

An operator must wear the following safety equipment when operating an off-the-road [[motorcycle]] vehicle:

(1) a helmet that meets safety standards [[set by regulation]] established by the Maryland Motor Vehicle Administrator; and

(2) [[an eye]] a protective eye device, unless the vehicle is equipped with a windscreen.

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7A-[[4]]3. Driving restrictions.

(a) An operator must not operate an off-the-road [[motorcycle]] vehicle on County or Maryland-National Capital Park and Planning property without written permission of the County Executive, the Director of the Maryland-National Capital Park and Planning Commission, or a designee, except for [[County]] employees or agents of the County, the Maryland-National Capital Park and Planning Commission, or other government agencies performing work or services on behalf of the County or a government agency.

(b) An operator must not operate an off-the-road [[motorcycle]] vehicle on private property unless:

(1) the operator wears the required safety equipment as provided in Section 7A-[[3]]2;

(2) the operator has the express written permission of the property owner; [[and]]

(3) the operator, if 16 years of age or younger, is supervised by an adult; and

[[4)] the operation is within 300 feet of a dwelling; and]]

[[5)] (4) the operation is between the hours of 7 a.m. and 8 p.m.

[[7A-4. Regulations.

(a) The County Executive or a designee [[may]] must establish method 2 regulations to implement this Chapter [[by method (2)].

(b) The County Executive or a designee may set off-the-road [[motorcycle]] vehicle registration fees by [[executive]] method 3 regulations under method (3).]]

7A-[[6]]4. Enforcement.

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(a) The [[County Police]] Department [[must]] may enforce the requirements of this Chapter. The Maryland-National Capital Park and Planning [[Commission]] Police may enforce the requirements of this Chapter on Maryland-National Capital Park and Planning Commission property.

(b) The [[County Police]] Department and the Maryland-National Capital Park and Planning [[Commission]] Police may impound [[any unregistered]] an off-the-road [[motorcycle]] vehicle [[until the vehicle is registered]] used in violation of this [[chapter]] Chapter.

(c) The [[County Police]] Department may:

(1) hold the [[unregistered]] off-the-road [[motorcycle]] vehicle until the [[vehicle is registered and returned to the owner]] owner claims the vehicle and pays all fines or fees;

(2) donate the off-the-road [[motorcycle]] vehicle to a non-profit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, if [[reasonable attempts to locate the owner are unsuccessful and 90]] the owner cannot be located and 60 days have elapsed from the date of impoundment; or

(3) dispose of the off-the-road [[motorcycle]] vehicle in the manner provided for abandoned motor vehicles in Section 31-63. [[The net proceeds received from the sale of an impounded or abandoned off-the-road motorcycle must be deposited in the Police Relief and Retirement Fund.]]

7A-[[7]]5. Notice Requirements.

(a) The Department must educate County residents about the use of off-the-road vehicles and may work with the Office of Consumer Protection.

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108 the Office of Public Information, or any other government or non-
109 government agency, group, or organization to conduct a public
110 education campaign. By January 1 of each year, the Department must
111 report to the Council on the activities conducted for the public education
112 campaign and the number and type of citations issued for violations of
113 this Chapter.

114 (b) A [[person who sells at]] retail seller of an off-the-road vehicle must
115 post a sign, and make available written information, [[with]]
116 summarizing State and County law on the use of off-the-road vehicles
117 in each retail location. [[Signs]] Each sign and item of written
118 information must be [[approved by]] submitted to the Office of
119 Consumer Protection.

120 7A-[[7]]6. Penalty.

121 A violation of this Chapter is a class C violation.

122 [[Sec. 2. Effective Date.

123 This Act takes effect on September 1, 2006.]]